Customs Bulletin

Regulations, Rulings, Decisions, and Notices concerning Customs and related matters

and Decisions

of the United States Court of Appeals for the Federal Circuit and the United States Court of International Trade

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This issue contains

THE DEPARTMENT OF THE TREASURY
U.S. Customs Service

NOTICE

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U.S. Customs Service

Treasury Decision

(T.D. 83-50)

Bonds

Approval and discontinuance of bonds on Customs Form 7587 for the control of Instruments of International Traffic of a kind specified in section 10.41a of the Customs Regulations

Bonds on Customs Form 7587 for the control of instruments of international traffic of a kind specified in section 10.41a of the Customs Regulations have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by the figures in parentheses immediately following, which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Dated: February 24, 1983.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Allied Engineering Co., 230 Park Ave., New York, NY; Washington International Ins. Co.	Jan. 6, 1983	Jan. 11, 1983	New York Seaport $10,000
Allis Chalmers Corp., P.O. Box 512, Milwaukee, WI; Federal Ins. Co. D 3/19/83	Mar. 19, 1982	Mar. 23, 1982	Milwaukee, WI $25,000
American Motors Corp., 27777 Franklin Rd., Southfield, MI; St. Paul Fire & Marine Ins. Co. (PB 12/1/76) D 12/1/82[1]	Dec. 1, 1982	Dec. 1, 1982	Detroit, MI $10,000
American Oceanic Shipping Corp. of TX, 609 Fannin St., Houston, TX; St. Paul Fire & Marine Ins. Co. D 12/22/82	Oct. 4, 1979	Oct. 5, 1979	Houston, TX $10,000
Associated Forwarders, Inc., 1000 I.T.M. Bldg., New Orleans, LA; St. Paul Fire & Marine Ins. Co.	Dec. 24, 1982	Jan. 13, 1983	New Orleans, LA $10,000

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Caribe Shipping Co., Inc., Pier No. 9, San Juan, PR; New Hampshire Ins. Co. (PB 1/28/82) D 1/27/83[2]	Jan. 28, 1983	Jan. 28, 1983	San Juan, PR $10,000
Domtar Inc./Chemicals Group/Lime Division, 395 De Maisonneuve Blvd., W., Montreal, Quebec, Canada; The Continental Ins. Co. (PB 5/21/76) D 11/2/82[3]	Aug. 31, 1982	Nov. 3, 1982	Buffalo, NY $10,000
East Bay Beverage Co., P.O. Box 23663, Oakland, CA; Washington International Ins. Co. (PB 11/21/73) D 10/22/82[4]	Oct. 15, 1982	Oct. 22, 1982	San Francisco, CA $10,000
Hapag-Lloyd (America), Inc., 17 Battery Place, New York, NY; American Casualty Co. of Reading, PA	Jan. 1, 1983	Jan. 3, 1983	New York Seaport $10,000
Illva Saronno Inc., P.O. Box 400, Edison, NJ; American Motorists Ins. Co. D 1/26/83	Nov. 24, 1980	Nov. 26, 1980	New York Seaport $10,000
McDermott, Inc., P.O. Drawer 38, Harvey, LA; Old Republic Ins. Co.	Jan. 19, 1983	Jan. 19, 1983	New Orleans, LA $10,000
Nieves Hermanos, Inc., #57 General Contreras St., San Juan, PR; Cooperativa de Seguros Multiples de PR	Jan. 14, 1983	Jan. 24, 1983	San Juan, PR $10,000
Nilit, Ltd., P.O. Box 276, Migdal Haemek, Israel, Peerless Ins. Co.	Jan. 6, 1983	Jan. 6, 1983	Norfolk, VA $10,000
Sea Containers Atlantic, Ltd., Argus Bldg., Wesley St., Hamilton, Bermuda; Ins. Co. of North America D 2/7/83	Aug. 26, 1976	Nov. 2, 1976	San Francisco, CA $10,000
Sea Containers, Inc., and its wholly owned sub: SC Pacific Ltd., and Sea Containers Ltd., One World Trade Center, Suite 2841, New York, NY; Ins. Co. of North America D 2/7/83	Mar. 26, 1973	Apr. 4, 1973	San Francisco, CA $10,000
Sofati Container Line (North America) Ltd., 245 Victoria Ave., Montreal, P.Q., Canada; Fireman's Fund Ins. Co.	Nov. 4, 1982	Jan. 10, 1983	Ogdensburg, NY $10,000
Sunrise Shipping Agency, Inc., 310 S.W. 4th, Suite 1010, Portland, OR; Washington International Ins. Co.	Jan. 25, 1983	Jan. 25, 1983	Portland, OR $10,000
Trans Asia Marine Corp., 60 Broad St., New York, NY; Federal Ins. Co. D 1/28/83	Dec. 21, 1979	Dec. 21, 1979	New York Seaport $10,000
Union Carbide Caribe, Inc., 268 Munoz Rivera Ave., Banco de Ponce Bldg. 20th fl., San Juan, PR; Puerto Rican-American Ins. Co.	Dec. 2, 1982	Dec. 15, 1982	San Juan, PR $10,000

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
West India Shipping Co., Inc., 153 E. Port Rd., Rivera Beach, FL; American Employers Ins. Co. (PB 9/24/62) D 9/24/82[5]	Sept. 24, 1982	Sept. 24, 1982	Tampa, FL $10,000

[1] Surety is American Casualty Co. of Reading, PA
[2] Surety is Potomac Ins. Co.
[3] Principal is Domtar Chemicals Ltd.
[4] Surety is Peerless Ins. Co.
[5] Surety is Hartford Accident & Indemnity Co.

(BON-3-10)

MARILYN G. MORRISON,
Director,
Carriers, Drawback & Bonds Division.

(T.D. 83-51)

Reimbursable Services—Excess Cost of Preclearance Operations

DEPARTMENT OF THE TREASURY;
OFFICE OF THE COMMISSIONER OF CUSTOMS;
Washington, D.C., March 1, 1983.

Notice is hereby given that pursuant to Section 24.18(d), Customs Regulations (19 CFR 24.18(d)), the biweekly reimbursable excess costs for each preclearance installation are determined to be as set forth below and will be effective with the pay period beginning March 6, 1983.

Installation	Biweekly excess cost
Montreal, Canada	$16,610
Toronto, Canada	31,765
Kindley Field, Bermuda	8,699
Nassua, Bahama Islands	16,336
Vancouver, Canada	10,759
Winnipeg, Canada	2,689
Freeport, Bahama Islands	9,777
Calgary, Canada	7,495
Edmonton, Canada	5,066

WILLIAM H. RUSSELL,
Comptroller.

[Published in the Federal Register, March 7, 1983 (48 FR 9611)]

(T.D. 83-52)

Approval of public gauger performing gauging under standards and procedures required by Customs

Notice is hereby given pursuant to the provisions of section 151.43 of the Customs Regulations (19 CFR 151.43) that the application of Camin & Corris Cargo Control, 56 Windham Loop, Staten Island, New York 10314, to gauge imported petroleum and petroleum products in all Customs districts, in accordance with the provisions of section 151.43, Subpart C, of the Customs Regulations, is approved.

Dated: March 2, 1983.

DONALD W. LEWIS
(For A. Piazza, Director, Entry Procedures and Penalties Division).

(T.D. 83-53)

Drawback Contract—Burlap or other textile Material

The proposed Customs Regulations revision of Part 22 relating to drawback was published in the Federal Register, August 26, 1982. Sections 22.6 (a) through (i) of the regulations, relating to general drawback rates are being removed from the revision to the regulations, Part 191. These sections are not of sufficient general applicability to be included in the revision. However, no member of the public would be forfeiting any rights and benefits by their removal. As advised in the Notice of Proposed Rulemaking, 47 FR 37568, general drawback contracts would be published as Treasury Decisions designed to take the place of the eliminated sections. The following is one such contract.

File: DRA-1
215646
Date: March 2, 1983

MARILYN G. MORRISON;
Director, Carriers, Drawback, and Bonds Division.

DRAWBACK CONTRACT UNDER 19 U.S.C. 1313(a) FOR ARTICLES MANUFACTURED WITH THE USE OF IMPORTED BAGS AND MEAT WRAPPERS

Drawback may be allowed on the exportation of burlap or other textile material manufactured with the use of imported burlap or other textile material, subject to the following special requirements:

(1) Each lot of imported material received by a manufacturer shall be given a lot number and kept separate from other lots until used. The records of the manufacturer shall show, as to each manufacturing lot or period of manufacture, the quantity of material

used from each import lot and the number of each kind and size of bags or meat wrappers obtained. A certificate of manufacture shall be filed covering each manufacturing lot or period of manufacture.

(2) All bags or meat wrappers manufactured for the account of the same exporter during a specified period may be designated as one manufacturing lot and covered by one certificate of manufacture and delivery. All exported bags or meat wrappers shall be identified by the exporter with the certificate of manufacture covering their manufacture.

(3) The drawback allowance shall not exceed 99 percent of the duty paid on the imported material appearing in the exported bags or meat wrappers, unless the manufacturer desires an allowance for waste and so specifies in his statement. In such cases, the records of the manufacturer shall show, in addition to the above requirements, the value of the imported material, the quantity of waste incurred in the manufacture of each lot of bags or meat wrappers, or during each period of manufacture, and the value of such waste, if any; and in liquidation the quantity of imported material which may be used as the basis for the allowance of drawback shall be reduced by the quantity of imported material which the value of the waste will replace.

(4) Each manufacturer or producer of articles covered by the above drawback rate shall submit to the regional commissioner where drawback entries will be filed, a statement in duplicate describing the methods used in the manufacture or production of the products involved and setting forth the records it agrees to keep for the purpose of complying with the drawback law and regulations and for providing all the data required for the proper liquidation of certificates of manufacture and drawback entries filed hereunder. If the statement shows that the methods and records described therein enable the manufacturer or producer to comply with the law and regulations, the regional commissioner shall approve the statement and promptly notify the applicant, in writing, of such action.

If drawback entries are to be liquidated at more than one regional office, two additional copies of the statement shall be required for each additional office. In such case, the regional commissioner at the place first listed in the drawback statement shall approve the statement, if that action is warranted, and promptly notify the applicant, in writing, of such action.

Revised statements covering changes in drawback statements filed under this Treasury Decision shall be handled in accordance with the previously discussed provisions.

The allowance of drawback on articles covered by this Treasury Decision shall be subject to compliance with the applicable provisions of Part 191.

398-723 O - 83 - 2

Customs Service Decisions

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C.

The following are decisions made by the United States Customs Service where the issues involved are of sufficient interest or importance to warrant publication in the Customs Bulletin.

JOHN P. SIMPSON,
Director,
Office of Regulations and Rulings.

(C.S.D. 83-1)

This Ruling Holds That Customs Headquarters Will Not Substitute Its Judgment for the Fields Refusal To Grant Same Condition Drawback To Merchandise Exported Without Examination Unless It Can Be Shown That a Customs Officer Acted Arbitrarily

Date: February 3, 1982
File: DRA-1-09-CO:R:CD:D
213801 B

DISTRICT DIRECTOR OF CUSTOMS
San Juan, Puerto Rico
Attention: Director, Classification and Value Division

DEAR SIR: Your report of November 24, 1981 (DRA-7-DD:C:IA CT-1) forwarded a copy of a letter of August 25, 1981, from a customhouse broker requesting internal advice on the applicability of same condition drawback on medicinals sent in error to consignees at your port.

The medicinals were erroneously shipped from the United Kingdom to the consignees and were imported in January, 1980, and placed in general order warehouse. The medicinals remained unclaimed in excess of the one year period prescribed in 19 U.S.C. 1491, and were therefore considered abandoned. When the consignees discovered the merchandise was to be offered for sale, they decided to export it. Their broker consulted your office and was informed that once the medicinals became subject to sale, they could not be removed from general order for consumption or exportation without payment of all duties and applicable charges, as provided in the noted statute. As a result of this consultation, the broker

filed a consumption entry dated March 31, 1981, and subsequently a transportation and exportation entry dated April 2, 1981, and the merchandise was exported, apparently on April 7, 1981.

With his letter of August 25, 1981, the broker filed a same condition drawback entry.

The fact that the medicinals were entered for consumption in order to pay duties prior to exportation does not negate the provisions of 19 U.S.C. 1313(j), which applies to all merchandise entered or withdrawn from warehouse for consumption on and after December 28, 1980. The statute does not limit "withdrawn from warehouse for consumption" by language limiting the law to merchandise withdrawn for consumption for particular reasons.

In the case you cite as controlling should 19 U.S.C. 1313(j) be applicable, *Swan Tricot Mills Corporation* v. *United States,* 63 Cust. Ct. 530, C.D. 3948 (1969), the court held that adherence to the requirements of the law and regulations was a prerequisite to obtaining the benefits of 19 U.S.C. 1313(c). This case and similar cases are limited to that statute. The only requirements applicable to 1313(j), in addition to the provisions of that law, are interim operating instruments for Customs and claimants. One requirement under these instructions is that the prospective claimant notify Customs prior to exportation so that Customs may examine the merchandise if it is felt this step is necessary. If the goods are not examined, the District Director may at his discretion allow the claim if he is satisfied the conditions of the law have been met.

It is clear from your report that you believe examination was required in this case and have therefore disallowed the claim.

Unless it is evident a Customs officer has acted in an arbitrary or capricious manner we will not substitute our judgment for his. We will not do so here. The very nature of the merchandise involved, medicinals, would indicate an examination was in order if only to determine if they had deteriorated.

As you point out, Customs is not required to volunteer to an importer/exporter that a particular statute or regulation is available for use, especially if the Customs officer believes the provision does not apply. Your office published an advisory notice to importers, prior to exportation in this case, instructing them of the steps to be taken to obtain same condition drawback. The fact that the broker was not aware of them, and chose to ignore two statutes of which he should have been aware, 19 U.S.C. 1313(c) and 1313(j), does not amount to a clerical error or mistake of fact under 19 U.S.C. 1520(c)(1).

We agree with your conclusion that the claim should be disallowed. However, had the broker made a proper claim for same condition drawback the law would have applied.

(C.S.D. 83-2)

This Decision Holds That Repacking or Repackaging for Retail Sale Is Permissible Under the Same Condition Drawback Law, 19 U.S.C. 1313(j)

Date: April 5, 1982
File: DRA-1-09-CO:R:CD:D
214185 B

Re: Your Request for Internal Advice of February 16, 1982—Repackaging of Candy—Same Condition Drawback

DEAR SIR: This is in reply to the referenced matters.

Already formed to size and shape, candy is imported from Italy in 220 pound containers. Prior to exportation, the candy is repackaged in 14 and 16 gram containers for retail sale. The broker for the repackager requested that same condition drawback be allowed on the candy.

The same condition drawback law, 19 U.S.C. 1313(j), does not require that imported merchandise be exported in every case in absolutely the same condition as imported. The imported merchandise may undergo certain incidental operations specifically allowed by that law which do change the condition of the merchandise. One of the incidential specifically allowed operations is repackaging.

The legislative history for same condition drawback is silent as to what the Congress meant by "repackaging." However, statutory language is presumed to be used in its normal sense. *United States* v. *Esso Standard Oil Co.,* 42 CCPA 144, at 151, C.A.D. 587 (1955), *United States* v. *British Cars and Parts, Inc.,* 47 CCPA 114, C.A.D. 741 (1960). If the language is clear and unambiguous, there is no reason to reject its meaning and search for some other signification. *Akawo, Morimura and Co.* v. *United States,* 6 Cust. Appls. 379, at 381, T.D. 35921 (1915).

There is no apparent limitation of the word "repackaging," that is, the operation is not limited to wholesale or bulk repackaging. The repackaging in this case does not amount to a manufacture under the drawback law and is therefore allowable under same condition drawback. Accord, T.D. 78-77.

Many samples of packaged candy are submitted, however, since the only question raised by the broker refers to the small peppermint and flavored drops, this advice is limited to them.

(C.S.D. 83-3)

This Ruling Holds That Tooling Is Not an Assist Where Tools Paid for by the Buyer Are Constructed by the Manufacturer for Use in Producing Merchandise for the Buyer. The Payment for the Tools Constitutes Part of the Price Paid or Payable for the Merchandise. (Section 402(h)(1)(A), Tariff Act of 1930)

Date: July 19, 1982
File: CLA-2 CO:R:CV:V
542812 LPD

This is in regard to your letter of April 28, 1982, and your subsequent telephone conversation with Mr. Dunham of my staff, concerning the application of section 402(h)(1)(A), Tariff Act of 1930, as amended by the Trade Agreements Act of 1979 (TAA), to the importation of valves which you contemplate having manufactured in Great Britain. The valves would be manufactured to your specifications using tools which the manufacturer would build specially for this purpose. You would reimburse the manufacturer for the cost of producing these tools. You inquire whether, under these circumstances, the cost of the tools would be includable as an assist in the dutiable value of the merchandise.

Section 402(h)(1)(A) states:

> (h) DEFINITIONS.—As used in this section—
>
> (1)(A) The term 'assist' means any of the following if supplied directly or indirectly, and free of charge or at reduced cost, by the buyer of imported merchandise for use in connection with the production or the sale for export to the United States of the merchandise:
>
> * * * * * *
>
> (ii) Tools, dies, molds, and similar items used in the production of the imported merchandise.
>
> * * * * * *

On the basis of the information which you have submitted, it appears that your arrangement with the manufacturer does not fall within the above definition and cannot be considered an assist because you have not supplied the seller with the tooling. Rather, the additional amount which you would pay to the manufacturer for producing the tools would be dutiable because it constitutes part of the price actually paid or payable for the merchandise, *i.e.*, part of the total payment made by the buyer to, or for the benefit of, the seller and would be included in the transaction value of the merchandise to be imported.

(C.S.D. 83-4)

This Ruling Holds That Loan Interest Expense Incurred by a Foreign Assembler During Start-Up Phase Is Included in the Amount for Profit and General Expenses Under Computed Value

Date: August 6, 1982
File: CLA-2 CO:R:CV:V
542848 CW

To: District Director of Customs, El Paso, Tex.
From: Director, Classification and Value Division
Subject: Dutiability of Interest Expense Incurred by a Foreign Assembler During Start-Up Phase

This is in response to your memorandum of June 16, 1982, in which you request a ruling on the issue of whether loan interest expense incurred by an assembler in Mexico prior to the commencement of production and assembly operations should be included in computed value under section 402(e) of the Tariff Act of 1930, as amended by the Trade Agreements Act of 1979 (TAA). You state that the loan in this case is obtained by the importer and is used to outfit and establish the foreign assembler. Specifically, the assembler's land, building, machinery, equipment, furniture, fixtures and other similar items are procured by means of the loan.

In your opinion, this expense is dutiable as part of the "amount for profit and general expenses" under computed value.

Section 402(e)(B) provides that computed value includes:

> "* * * an amount for profit and general expenses equal to that usually reflected in sales of merchandise, of the same class or kind as the imported merchandise, that are made by the producers in the country of exportation for export to the United States * * *"

You state that you are unaware of any other assemblers in Mexico which produce merchandise of the same class or kind as the instant merchandise for export to the United States. Under these circumstances, the Mexican assembler's actual figures represent the "usual" profit and general expenses.

The Statement of Administrative Action relating to the TAA provides that the "amount for profit and general expenses" under computed value:

> "* * * will be determined on the basis of information supplied by, or on behalf of, the producer and will be based upon the commercial accounts of the producer, provided that such accounts are consistent with the generally accepted accounting principles applied in the country where the goods are produced * * *"

The amount of the interest expense incurred by the assembler prior to the initiation of its production operations appears on the assembler's books of account. It appears from your memorandum,

and for purposes of this ruling we are assuming, that the inclusion of the interest expense item in the books of account is consistent with generally accepted accounting principles in Mexico. Moreover, as the interest expense constitutes part of the assembler's start-up costs, it clearly qualifies as a general expense which is related to the assembly of the merchandise in question.

For the foregoing reasons, we concur in your opinion that where the loan interest expense incurred by the assembler prior to commencement of assembly operations appears on the assembler's books of account, that expense is properly included in the "amount for profit and general expenses" under computed value.

We note that there is no indication in your memorandum of the reason for rejecting transaction value as a basis of appraisement. In this regard, we wish to refer you to TAA No. 25, copy attached, which pertains to the applicability of transaction value to importations under item 807.00, Tariff Schedules of the United States (TSUS), involving related parties.

(C.S.D. 83-5)

This Ruling Holds That Certain Tubing Entered Under Item 864.05, TSUS, Does Not Appear To Be Valuable Waste and Must be Exported or Destroyed

Date: August 13, 1982
File: CON-9-04-CO:R.CD:D
214273 L

Re: District Director of Customs, New Orleans, letters CON-9-04-NO:CV: IS KJH of April 19, 1982, and CON-9-04-NO:CV:RA of July 14, 1982

The District Director of Customs, New Orleans, has requested a ruling as to whether certain tubing, entered under item 864.05, Tariff Schedules of the United States (TSUS), after the effective date of Public Law 96-609, and subsequently rejected for its intended use because it does not meet A.P.I. specifications, is considered "valuable waste" within the meaning of Headnote 2(b)(ii), Schedule 8, Part 5C, TSUS. He also asks if Pubic Law 96-609, which became effective on December 28, 1980, has any effect on tubing entered temporarily free of duty under bond between April 11, 1978, and July 14, 1979, rejected as noted, but not exported or destroyed.

The basic issue raised, that is, whether the term "waste," as used in the Headnotes to Schedule 8, Part 5C, TSUS, includes "by-products" is covered by the enclosed April 6, 1982, ruling (CON-9-04-CO:R:CD:D, 214044 R). That ruling concludes that "wastes" and "by-products" are not synonomous for the purposes of temporary importation under bond and that the term "articles" encompasses "by-products."

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We recognize the practical difficulties that may be encountered in making the distinction between a by-product and a valuable waste. Experience in making this decision in connection with item 864.05, TSUS, and Headnote 2(b)(ii) to Schedule 8, Part 5C, as amended by Public Law 96–609, is very limited.

However, such decisions are significant where drawback is concerned because drawback is allowable on exports of by-products, but not on exports of valuable waste. While there is no hard and fast rule, the judgement is based upon consideration of a number of elements and on the basis of the total picture. We adopt similar considerations here. The significant elements are:

1. The nature of the material of which the residue is composed.
2. The value of the residue as compared to the value of the principal product and the raw material.
3. The use to which it is put.
4. Its status under the tariff law, if imported.
5. Whether it is a commodity recognized in commerce.
6. Whether it must be subjected to some process to make it saleable.

We do not have sufficient information to rule on the status of the rejected tubing, but it appears to us to be a by-product. Applying the above criteria, it appears that the principal product and rejects are essentially similar, except that the rejects do not meet particular A.P.I. specifications. The relative values of the articles are not known.

The rejected pipe is said to be no longer useful as premium oil well tubing but appears to have a number of other uses that are not compatible with a classification as waste. If the rejected tubing were imported and entered for consumption, it probably would not be classified as waste. We have no information on whether rejected tubing is recognized in commerce, but it appears clear that there are markets for tubing which does not meet specific A.P.I. standards. Finally, it does not appear that any further processing is necessary to make the tubing saleable.

So far as the second question is concerned, valuable waste generated from articles imported temporarily free of duty under 864.05, TSUS, between April 11, 1978, and July 14, 1979, could remain in the United States upon tender of duty so long as it was covered by a valid temporary importation bond on the effective date of Public Law 96–609, December 28, 1980, and so long as the tender of duties is timely made within the maximum 3-year period from date of importation.

In this case, of course, the rejected tubing does not appear to be valuable waste and must be exported or destroyed to avoid breach of the bond.

(C.S.D. 83-6)

This Decision Holds That, Pursuant to 19 U.S.C. 2463(b)(1), Merchandise Destined for Another Foreign Country Upon Exportation, but Diverted to the United States Without Having Passed Through Any Other Foreign Country, and While Traveling the Same Course Taken In Order To Reach Its Ultimate United States Port of Entry, is Considered To Be "Imported Directly" for Purposes of the Generalized System of Preferences

Date: August 25, 1982
File: ENT-2-01 CO:R:E:E
720205 KP

This decision concerns the eligibility of merchandise for duty-free treatment under the Generalized System of Preferences (GSP) when said merchandise, at the time of exportation from its beneficiary developing country (BDC), is destined for another foreign country, but is subsequently diverted to the United States.

Issue: Under the Generalized System of Preferences (GSP), is merchandise which is destined for another foreign country upon exportation from a beneficiary developing country (BDC), considered to be "imported directly" into the United States under 19 U.S.C. 2463(b)(1) if, without passing through the territory of any other country, the merchandise is diverted to the United States along the same course which would have been required had the vessel originally set out for the U.S. port of entry?

Facts: Raw sugar from the Fiji Islands was entered into the United States at the port of Houston/Galveston. Inasmuch as GSP status was claimed for the sugar at the time of entry, the District Director of Customs at Houston requested evidence of direct shipment, *i.e.*, the bill of lading for the merchandise in question. The bill of lading submitted by the importer indicated that the sugar was destined for the United Kingdom at the time of exportation from Fiji. However, documents subsequently submitted by the importer disclosed that the vessel, while traveling to the United Kingdom along the same course it normally would have taken to Galveston, Texas, was diverted to the United States to unload the sugar. The sugar was entered into the United States having not passed through the territory of any other country since its exportation from Fiji.

Law and analysis: Products of Fiji, under the provisions of General Headnote 3(g), Tariff Schedules of the United States (TSUS), are subject to rates of duty set forth in column 1 of the TSUS. Because Fiji is designated as a BDC for the GSP under General Headnote 3(c)(i), TSUS, articles eligible for the GSP and imported from Fiji may qualify for duty-free treatment.

The GSP provides a conditional free rate of duty as an alternative to the usual column 1 rate if certain requirements are satisfied. One such requirement is set forth in 19 U.S.C. 2463 as follows:

> (b) The duty-free treatment * * * shall apply only—
> (1) to an article which is imported directly from a beneficiary developing country into the customs territory of the United States; * * *

Section 10.175 of the Customs Regulations (19 CFR 10.175) defines "imported directly," for GSP purposes, to mean:

> (a) Direct shipment from the beneficiary country to the United States without passing through the territory of any other country; or
> (b) Except as provided in paragraph (c) of this section, if shipped from a beneficiary developing country to the United States through the territory of any other country, the merchandise shall not have entered into the commerce of any other country while en route to the United States, and the invoices, bills of lading, and other documents connected with the shipment shall show the United States as the final destination; * * *

Paragraph (c) of section 10.175 provides for the instance when merchandise is shipped from the beneficiary developing country to the United States through a free trade zone in a BDC.

In the instant case, the raw sugar arrived in the United States from Fiji without passing through the territory of any other country. Consequently, the determination as to whether this merchandise was "imported directly" for GSP purposes is governed by paragraph (a) of section 10.175 of the Customs Regulations.

Significantly, and in contrast to paragraph (b) of the above section, paragraph (a) does not require that invoices, bills of lading, and other shipping documents show the United States as the final destination of the subject merchandise. Thus, while the indication on the bill of lading that the United Kingdom was the final destination of the sugar may constitute evidence on the issue of direct shipment under section 10.174(a) of the Customs Regulations (19 CFR 10.174(a)), it does not preclude a finding that the shipment in question was "imported directly," and is therefore entitled to duty-free treatment under the GSP, especially in light of the last sentence of section 10.174(a), which provides that:
sentence of section 10.174(a), which provides that:

> Any evidence of direct shipment required by the district director shall be subject to such verification as he deems necessary.

In this case, the District Director at the port of entry found it necessary to verify the evidence of direct shipment presented by the bill of lading. His further investigation disclosed that the merchandise, which had been destined for the United Kingdom upon export from Fiji, in fact was diverted to the United States while in transit. Furthermore, this modification in the vessel's voyage was made before the vessel proceeded in any direction other than along the same course which would have been required had the vessel originally left Fiji for Galveston.

Webster's Third New International Dictionary of the English Language, Unabridged, defines "direct" to mean "proceeding from one point to another in time or space without deviation or interruption." By this definition, the shipment of sugar must be characterized as direct in nature. Inasmuch as the shipment did not pass through the territory of any other country, this merchandise is considered to have been imported directly from Fiji into the United States for GSP purposes in accordance with section 10.175(a) of the Customs Regulations.

Holding: Raw sugar destined for the United Kingdom upon exportation from Fiji, but diverted to the United States while traveling the same course it normally would have taken to reach its ultimate port of entry in the United States from Fiji, which is entered having not passed through the territory of any other country, is considered to be "imported directly" into the United States for GSP purposes under 19 U.S.C. 2463(b)(1). This merchandise may be eligible for duty-free treatment under the GSP provided it otherwise qualifies.

(C.S.D. 83-7)

This Ruling Holds That a Drawback Claimant May Use an Approved Formula To Determine Nondesignated Fresh Orange Juice Used in Production in Lieu of Actual Measurements

Date: August 27, 1982
File: CO:R:CD:D
214887 K

Re: Request for further review of protest numbered 1801-1-00010 dated April 14, 1981

The following is in reply to your request for further review of the above-referenced protest.

Issue: In computing drawback, may a processor deduct an average range of pounds solids of non-designated fresh orange juice used as cutback during the production period?

Facts and positions of protestant: Drawback entries were liquidated with a reduction of 9.9 and 12.2 percent of the drawback claimed based on a mathematical formula used by Customs since 1973, in lieu of maintaining records, to determine the amount of fresh orange juice used as cutback to reduce the degree Brix of imported designated and/or domestic substituted concentrated orange juice for manufacturing in the production of frozen concentrated orange juice exported for drawback. The protestant is not contesting the formula but rather its applicability to the entries covered by the protest.

It is the position of the protestant that it used fresh orange juice (containing pounds solids) as cutback to reduce the degree Brix (65°) of designated concentrated orange juice for manufacturing in

the production of frozen concentrated orange juice of 44.8° and 41.8° Brix for domestic consumption and that it used water, oils and/or essences (not containing pounds solids) as cutback in the production of frozen concentrated orange juice exported for drawback.

It is also the position of the protestant that its combined records of productions for both exportation and domestic consumption would show an average range between 7.93 to 5.88 pounds solids of fresh orange juice used as cutback and that the average range is less than that calculated by the use of the approved Customs mathematical formula.

Law and analysis: Under the substituted drawback law (19 U.S.C. 1313(b)), domestic merchandise may be substituted for imported merchandise of the same kind and quality for use in the manufacture or production of new and different articles exported for drawback (refund of duty). Fresh orange juice is not of the same kind and quality as concentrated orange juice for manufacturing. (See C.S.D. 81–96). Accordingly, drawback is not allowable for pounds solids of non-designated fresh orange juice used to cutback the degree Brix of designated concentrated orange juice for manufacturing.

"Pounds solid" is a form of measurement, used by both the citrus industry and Customs, to determine the amount of soluble solids, primarily sugars, in orange fruit. "Brix" is a scale for measuring the concentration of the solids in an orange juice product. The "degree Brix" of concentrated orange juice is converted into pounds solids to determine its value. Pounds solids may be converted into gallons to determine the duty on imported concentrated orange juice and the drawback allowed on exportation of orange juice products made with the use of designated concentrated orange juice. Fresh orange juice and concentrated orange juice contain pounds solids. Water, oils and/or essences do not contain pounds solids."

A processor, of course, may choose a manufacturing process which allows the most advantageous benefit of drawback. However, section 22.5(a)(6) of the Customs Regulations requires that the records of the manufacturer or producer shall show the quantity of merchandise of the same kind and quality as designated merchandise used in the manufacture or production of the exported articles. The purpose of this regulation is obvious. It is to protect the revenue by avoiding an overpayment of drawback. The Customs Service must be satisfied that the protestant's records of its manufacturing processes substantiate its claim that fresh orange juice not designated for drawback was not used as cutback in the productions of frozen concentrated orange juice exported for drawback.

The protestant's records show that fresh orange juice was used as cutback in its productions of frozen concentrated orange juice for the periods covered by the drawback entries. However, the records

do not show that a particular production occurred during the production period without the use of fresh orange juice and that it was the production exported for drawback and covered by the drawback entry. The protestant's position that fresh orange juice was not used as cutback in its production of frozen concentrated orange juice exported for drawback is not sustained.

There is a long standing Customs practice in drawback which permits claimants to simplify procedures by reducing the amounts of their drawback. In these cases, they may waive a portion of their drawback in lieu of maintaining certain records. The mathematical formula approved by Customs in 1973, in which the protestant played an important part in its adoption, is in conformity with this practice. The procedure permits a processor who used non-designated fresh orange juice as cutback to use the formula to calculate the drawback in lieu of maintaining records of actual measurements. The use of the formula has proven to be beneficial to both the citrus industry and the Customs Service without endangering the revenue.

• *Holding:* The approved mathematical formula used by Customs since 1973, is applicable when non-designated fresh orange juice is used as cutback in the production of orange juice products exported for drawback in lieu of maintaining records of actual measurements.

You are directed to deny the protest in full and furnish the protestant with a copy of this decision. Your file is returned herewith.

(C.S.D. 83-8)

This Decision Holds That, by Authority Invested in the Secretary of the Treasury (Public Law 81-891, 64 Stat. 1120), a Waiver of 46 U.S.C. 883 is Hereby Granted for the Movement of a Floating Drydock, Between Two U.S. Ports, on a Foreign-Flag Submersible Barge, Provided a United States-Flag Tug Qualified for Coastwise Trade Is Employed for the Tow

Date: August 30, 1982
File: 105686 HS

DEAR (Name): This is in response to your letter of June 15, 1982, requesting a waiver of title 46, United States Code, section 883, to permit (Company name and location) to transport a floating drydock from (U.S. Point) to (U.S. Point) on a foreign-flag submersible barge.

In your letter you stated that there are no United States-flag submersible barges of sufficient capacity to accommodate the drydock which is approximately 320 feet long by 100 feet wide. You stated that (Co. Name) is located near the (location) Naval Shipyard and expects to become a major participant in naval repair and construction, having already submitted several bids on Department of Defense programs. You claim that the availability of the drydock

to (Co. Name) will enhance its ability to "better serve as a major component in the naval construction and repair industry of this country."

We have been advised by the Department of Defense that the drydock in question and the (Company Name) are important elements of the defense industrial base, and the planned movement of the drydock has the potential for converting an underutilized facility, with limited capability, into a fully serviceable facility which will enhance shipbuilding and repair capability for both naval and merchant ships in the (location) area. Accordingly, the Department of Defense states that the movement is deemed important to the national defense and if no United States-flag barge is available, granting of a waiver is warranted.

The Maritime Administration has advised us that there are no United States-flag submersible barges available suitable for the desired movement and that, if a United States-flag tug qualified for coastwise trade is employed for the tow of the barge, a waiver should be granted.

As you are aware, the Secretary of the Treasury has the authority to waive compliance with title 46, United States Code, section 883, only "if necessary in the interest of national defense" (Act of December 27, 1950, 64 Stat. 1120). In view of the advice of both the Department of Defense and MARAD, we find that the movement of the floating drydock between (U.S. Point) and (U.S. Point) on a foreign-flag submersible barge, as requested, is in the interest of national defense. A waiver of section 883 is granted for this movement, subject to the stipulation that a United States-flag tug qualified for coastwise trade be employed for the tow.

(C.S.D. 83-9)

This Decision Holds That, Pursuant to the 6th Proviso, 46 U.S.C. 883, Qualifying Foreign-Flag Vessels May Transport Qualifying Stevedoring Equipment Between Points in a Consolidated Customs Port

Date: September 2, 1982
File: VES-3-20 CO:R:CD:C
105757 PH

To: Regional Commissioner of Customs, San Francisco, Calif.
From: Director, Carriers, Drawback & Bonds Division
Subject: Application of Section 4.93, Customs Regulations, to the Transportation of Stevedoring Equipment and Material Between Points in the Consolidated Columbia River Customs Port

With his letter of August 19, 1982, the District Director, Portland, Oregon, forwarded a letter dated August 3, 1982, from (Name and location) on behalf of (Name) requesting an interpretation of section 4.93, Customs Regulations, and the sixth proviso to 46

U.S.C. 883, as applied to the transportation by vessels of specified foreign nations of qualifying stevedoring equipment and material between points in the consolidated Columbia River Customs Port. (Name) stated that "[f]ollowing the Customs Service's consolidation of several ports along and near the Columbia River into the Consolidated Port of Portland [see T.D. 73-338], local Customs officials concluded section 4.93, may mean that the exemption for stevedoring equipment applies only from port to port and not *within* a port." (Name) requested an "* * * interpretation explaining that section 4.93 applies to the points to and from which goods are shipped within consolidated ports just as it applies to shipments between points recognized by Customs as separate ports."

In commenting on (Name) letter, the District Director recommended that we rule that section 4.93 applies to movements between one "area" within a consolidated port and any other "area" within that consolidated port. The District Director stated that this interpretation would allow foreign-flag vessels the privileges they had prior to consolidation without allowing movements from one dock to another. The District Director stated that he finds it difficult to believe that the intent of section 4.93 was to allow a foreign-flag vessel to move empty cargo vans, stevedoring equipment, etc. from one dock to another within any port.

On August 2, 1982, Mr. Paul Hegland, a member of my staff, received a telephone inquiry on this subject from a Ms. Arnett Crom of Senator Mark O. Hatfield's Portland office. Mr. Hegland discussed this matter by telephone with the Customs Marine Officer in Portland on the same day and she confirmed that foreign-flag vessels are not being allowed to transport stevedoring equipment between points in the consolidated Columbia River Customs Port. She also stated that she had told the interested party in this case that he should request a ruling from Headquarters on the described transportation in order that the matter may be resolved.

(Name) letter apparently was prepared pursuant to the Portland Marine officer's suggestion. (Name) sent a copy of his letter to Senator Hatfield's Portland office and Senator Hatfield has sent a copy of (Name) letter to us with a request that we consider the matter. At this point we would like to emphasize that we believe the Portland Marine Officer's action in suggesting that the interested party in this case request a ruling was the correct way to handle this matter.

Title 46, United States Code, section 883 (the so-called "Jones Act"), prohibits the transportation of merchandise between points in the United States embraced within the coastwise laws, either directly or via a foreign port, or for any part of the transportation, in any other vessel than a vessel built in and documented under the laws of the United States and owned by citizens of the United States. The Act of August 11, 1968 (Public Law 90-474, 82 Stat. 700), amended the Jones Act to provide that "* * * upon such

terms and conditions as the Secretary of the Treasury by regulation may prescribe, and, if the transporting vessel is of foreign registry, upon a finding by the Secretary of the Treasury, pursuant to information obtained and furnished by the Secretary of State, that the government of the nation of registry extends reciprocal privileges to vessels of the United States, this section shall not apply to the transportation by vessels of the United States not qualified to engage in the coastwise trade, or by vessels of foreign registry, of * * * (e) stevedoring equipment and material, if such equipment and material is owned or leased by the owner or operator of the transporting vessel, or is owned or leased by the stevedoring company contracting for the lading or unlading of that vessel, and is transported without charge for use in the handling of cargo in foreign trade."

Section 4.93(a)(2), Customs Regulations, contains the Customs Regulations promulgated under this statute. Under that section, the exemption provided under the sixth proviso to the Jones Act applies to transportation of the articles named in the sixth proviso "* * * between *points* embraced within the coastwise laws of the United States. (Emphasis added.)

Section 4.93(c), Customs Regulations, provides, in part, that "[a]ny Cargo Declaration, Customs Form 1302, required to be filed under this part by any foreign vessel shall describe any article mentioned in paragraph (a) of this section laden aboard and transported from one United States port to another, * * *." Section 4.93(c) also requires that certain information be given to Customs and that a statement as to the ownership or leasing of the stevedoring equipment be made in the case of transportation of such articles.

(Name) is correct in his contention that vessels entitled to the exemption for stevedoring equipment in the sixth proviso to the Jones Act may transport qualifying stevedoring equipment and material between points in the consolidated Columbia River Customs Port. The sixth proviso applies to transportation between any United States points, whether the points are areas or different docks within a consolidated Customs port or an unconsolidated Customs port. This is clearly provided by statute (46 U.S.C. 883 applies to transportation between *points* in the United States and the sixth proviso provides that section 883 shall not apply to the described transportation of stevedoring equipment and materials).

Apparently, the reason the described transportation of stevedoring equipment has not been allowed in the consolidated Columbia River Customs Port is that paragraph (c) of section 4.93 refers to transportation "* * * from one United States port to another * * *" and the transportation under consideration is between two points in the same port.

The provision in section 4.93(c) is merely procedural and, in any event, may not override the statutory provision allowing the de-

scribed transportation. However, in order to assure compliance with the sixth proviso of section 883, prior to the transportation of the stevedoring equipment and material between points within the port, a statement describing the articles and providing the ownership or leasing information required by section 4.93(c) must be presented to Customs.

We hope that this memorandum has clarified this matter and that if you have any comments or questions you will feel free to write to us or to call the member of my staff who prepared this memorandum, Mr. Paul Hegland (FTS 566-5706).

(C.S.D. 83-10)

This Ruling Holds That a Broker May Not Continue To File Claims for Drawback and Receive Monies for the Bankrupt Claimant Unless the Contract Between the Broker and the Claimant Is Assumed by the Trustee in Bankruptcy, or the Latter, With the Approval of the Bankruptcy Court, Enters Into a New Agreement With the Broker Concerning the Filing of Claims

Date: September 20, 1982
File: DRA-1-09:CO:R:CD:D
214412 B

Issue: May a broker continue to file drawback claims and receive monies in behalf of a corporation after a petition for voluntary or involuntary bankruptcy is filed in a bankruptcy court?

Facts: A drawback broker, who has a contract to file for drawback for a corporate client, has asked if he may continue to file claims for drawback in behalf of that client should a petition for bankruptcy be filed.

Law and analysis: Drawback refunds are considered assets of the person or entity entitled to them. Under the Federal Bankruptcy Law, in 11 U.S.C. 363, "cash collateral" includes cash itself when a question of use, sale, or lease of property of the estate of a bankrupt is concerned.

The trustee in banruptcy may not use, sell, or lease cash collateral unless each entity that has an interest in such cash collateral consents, or the court after notice and hearing authorizes such use, sale, or lease of the cash collateral (11 U.S.C. 363(b)(2)(B)).

Should a drawback claimant file for bankruptcy, Customs would freeze any monies owed the claimant until an assessment is made of the claimant's standing in relation to monies owed Customs by the claimant. If the claimant owed monies to Customs at the time a petition for bankruptcy is filed, such filing would stay any act to collect, assess, recover, or setoff that debt brought before the petition for bankruptcy was filed 11 U.S.C. 362(a)(6)(7)). This applies to voluntary petitions under 11 U.S.C. 301 and involuntary petitions filed under 11 U.S.C. 303.

After the petition for bankruptcy is filed, however, Customs would have the right to file for a setoff of the debt under the provisions of 11 U.S.C. 553(a). If a claimant was entitled to drawback refunds, and owes no money to Customs we would deliver these refunds to the trustee as required by 11 U.S.C. 542, after he submits a drawback contract signed by the trustee, as successor to the bankrupt entity. Section 542 requires any entity in possession or control of "cash collateral" referred to in section 363 to turn over such collateral to the trustee. After any setoff is adjudicated, any monies owed the bankrupt by Customs would be paid to the trustee. In no case would Customs pay monies to an individual or corporation other than the trustee unless we are so directed by the court, or we are informed in writing by the trustees that a contract between the bankrupt and, for example, a drawback broker had been assumed by the trustee pursuant to 11 U.S.C. 365. Under that provision, a trustee in bankruptcy may assume or reject an executory contract in force at the time the petition was filed. Any power of attorney issued by a claimant prior to bankruptcy to a broker to file for drawback would be in the nature of an executory contract. Or, it would be possible for the trustee, with the approval of the court, to engage a broker to file drawback claims for the bankrupt claimant. Under section 141.40 of the Customs Regulations a trustee may execute a power of attorney for the transaction of Customs business. However, the filing for bankruptcy is insufficient grounds to grant an extension of the three year period in which claims must be completed, as required by section 22.13(a), Customs Regulations.

Holding: Upon the filing of a petition in bankruptcy, a broker may not continue to file claims for drawback and receive monies for the bankrupt claimant, unless the contract between the broker and claimant is assumed by the trustee in bankruptcy, or the latter, with the approval of the bankruptcy court, enters into a new agreement with the broker concerning the filing of claims. Any claims filed after the petition for bankruptcy require a new drawback contract signed by the trustee as successor to the bankrupt corporation.

Recent Customs Service Decisions Unpublished in the Customs Bulletin

The following listing of recent administrative decisions issued by the U.S. Customs Service is published for the information of Customs officers and the importing community. Although the decisions are not of sufficient general interest to warrant publication as Customs Service Decisions, the listing describes the issues involved and is intended to aid Customs officers and concerned members of the public in identifying matters of interest which recently have been considered by the U.S. Customs Service. Individuals to whom any of these decisions would be of interest should read the limitations expressed in 19 CFR 177.9(c).

A copy of any decision included in this listing, identified by its date and file number, may be obtained through use of the microfiche facilities in Customs reading rooms or if not available through those reading rooms, then it may be obtained upon written request to the Office of Regulations and Rulings, Attention: Legal Retrieval and Dissemination Branch, Room 2404, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229. Copies obtained from the Legal Retrieval and Dissemination Branch will be made available at a cost to the requester of $0.10 per page. However, the Customs Service will waive this charge if the total number of pages copied is ten or less.

The microfiche referred to above contains rulings/decisions published or listed in the Customs Bulletin, many rulings predating the establishment of the microfiche system, and other rulings/decisions issued by the Office of Regulations and Rulings. This microfiche is available at a cost of $0.15 per sheet of fiche. In addition, a keyword index fiche is available at the same cost ($0.15) per sheet of fiche.

It is anticipated that additions to both sets of microfiche will be made quarterly. Requests for subscriptions for the microfiche should be directed to the Legal Retrieval and Dissemination Branch. Subscribers will automatically receive updates as they are issued and will be billed accordingly.

Dated: February 24, 1983.

B. JAMES FRITZ,
Director,
Regulations Control and Disclosure Law Division.

Date of decision	File No.	Issue
1-27-83	105884	Vessels: vessel repair duties assessed pursuant to 19 U.S.C. 1466 upon repairs made in a foreign shipyard when a domestic facility is bypassed for reasons of scheduling convenience
1-28-83	105956	International Traffic: nylon bags used to transport fertilizer are designated as instruments of international traffic releasable under the procedures set forth in 19 CFR 10.41a
2-9-83	105979	Vessels: the carrying of civil officials, press and transportation professionals serving as "actors" between U.S. points on a foreign-flag vessel would be in violation of 46 U.S.C. 289
1-26-83	106000	Vessels: the towing of a foreign-flag vessel by a foreign-flag tug between coastwise points under 46 U.S.C. 316(a)
12-29-82	542970	Value: the acceptance of certain related party transactions under the Trade Agreements Act of 1979

United States Court of International Trade

One Federal Plaza

New York, N.Y. 10007

Chief Judge

Edward D. Re

Judges

Paul P. Rao
Morgan Ford
Frederick Landis
James L. Watson
Bernard Newman
Nils A. Boe

Senior Judges

Samuel M. Rosenstein

Herbert N. Maletz

Clerk

Joseph E. Lombardi

Decisions of the United States Court of International Trade

Abstracts

Abstracted Protest Decisions

DEPARTMENT OF THE TREASURY, *February 24, 1983.*

The following abstracts of decisions of the United States Court of International Trade at New York are published for the information and guidance of officers of the Customs and others concerned. Although the decisions are not of sufficient general interest to print in full, the summary herein given will be of assistance to Customs officials in easily locating cases and tracing important facts.

WILLIAM VON RAAB,
Commissioner of Customs.

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	ASSESSED	HELD	BASIS	PORT OF ENTRY AND MERCHANDISE
				Par. or Item No. and Rate	Par. or Item No. and Rate		
P83/40	Watson, J. February 17, 1983	Aldrich Chemical Company, Inc.	79-8-01239	Item 425.52 1.5¢ per lb. + 7.5%	Item 437.22 2%	Aldrich Chemical Co. v. U.S., Slip Op. 81-101 (CIT 11/9/81)	Milwaukee Cytochalasin B
P83/41	Watson, J. February 17, 1983	Aldrich Chemical Company, Inc.	79-11-01708	Item 525.52 1.5¢ per lb. + 7.5%	Item 437.22 2%	Aldrich Chemical Co. v. U.S., Slip Op. 81-101 (CIT 11/9/81)	Milwaukee Cytochalasin B
P83/42	Maletz, S.J. February 17, 1983	Kombi, Ltd.	81-1-00086, etc.	Item 704.85 32.5% + 25¢ per lb.	Items 734.99 and 735.06 Free of duty under GSP by virtue of Ex. Order No. 11888 of 11/24/75	Agreed statement of facts	Newark (New York) Glove liners; products of eligible beneficiary country
P83/43	Maletz, S.J. February 17, 1983	United Tire and Rubber Co., Limited	81-10-01425, etc.	Item 772.51 4%	Item 772.50 Free of duty	Agreed statement of facts	Sault Ste. Marie (Detroit) Log skidder tires
P83/44	Ford, J. February 22, 1983	Overseas Mailman, Inc., et al.	78-2-00357, etc.	Item 386.04 40%	Item 706.22 15%	J.E. Mamiye & Sons, Inc. v. U.S. (C.D. 4878, aff'd 11/19/81)	New York Duffel bags, denim bags, etc.
P83/45	Watson, J. February 22, 1983	Aldrich Chemical Company, Inc.	79-1-00118	Item 425.52 1.5¢ per lb. + 7.5%	Item 437.22 2%	Aldrich Chemical Co. v. U.S., Slip Op. 81-101 (CIT 11/9/81)	Milwaukee Organic chemical, Cytochalasin B
P83/46	Watson, J. February 22, 1983	Aldrich Chemical Company, Inc.	79-3-00446	Item 425.52 1.5¢ per lb. + 7.5%	Item 437.22 2%	Aldrich Chemical Co. v. U.S., Slip Op. 81-101 (CIT 11/9/81)	Milwaukee Organic chemical, Cytochalasin B
P83/47	Watson, J. February 22, 1983	All Channel Products	81-5-00568, etc.	Item 685.90 8.1% (items marked "A") Item 685.18 4.8% (items marked "B")	Item 685.19 4.8% (items marked "A" and "B")	All Channel Products Corp. v. U.S., Slip Op. 81-8 (CIT 1/16/81) (items marked "A") Agreed statement of facts (items marked "B")	New York Parts of television apparatus (items marked "A"); television apparatus or parts thereof (items marked "B")

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	ASSESSED	HELD	BASIS	PORT OF ENTRY AND MERCHANDISE
				Par. or Item No. and Rate	Par. or Item No. and Rate		
P83/48	Watson, J. February 22, 1983	Camp Ways, Inc.	81-4-00402	Item 389.62 25¢ per lb. + 15%	Item A735.20 Free of duty under GSP	Standard Surplus Sales Inc. v. U.S., Slip, Op. 81-5 (CIT 1/13/81)	Los Angeles Shoulder straps
P83/49	Watson J. February 22, 1983	Standard Sales, Inc.	81-1-00105	Item 389.62 25¢ per lb. + 15%	Item 735.20 10%	Standard Surplus Sales, Inc. v. U.S., Slip Op. 81-5 (CIT 1/13/81), U.S. v. Standard Surplus Sales, Inc., No. 81-13 (CCPA 12/17/81)	Los Angeles Shoulder straps, shoulder pads, etc.
P83/50	Maletz, S.J. February 22, 1983	Arthur J. Humphreys	80-8-01274, etc.	Item 184.75 8% or 7.5% Item 184.85 5.2% or 3%	Item 184.47 Free of duty	Norman G. Jensen, Inc. v. U.S. Slip Op. 81-101 (CIT 11/12/81)	Sumas (Seattle) Grain screenings pellets
P83/51	Maletz, S.J. February 22, 1983	Nippon Kogaku (USA), Inc.	81-4-00449, etc.	Item 722.34 10%, 9.5% or 9%	Item 722.16 7.5%, 6.9% or 6.4%	Agreed statement of facts	New York Camera motor drives; entireties with cameras to which they attach and with which imported
P83/52	Maletz, S.J. February 22, 1983	United Tire and Rubber Co. Limited	81-10-01424	Item 772.51 4%	Item 772.50 Free of duty	Agreed statement of facts	Blaine (Seattle) Log skidder tires

Decisions of the United States Court of International Trade

Abstracts

Abstracted Reappraisement Decisions

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	BASIS OF VALUATION	HELD VALUE	BASIS	PORT OF ENTRY AND MERCHANDISE
R83/216	Re, C.J. February 17, 1983	Joseph Markovitz, Inc.	74-10-02847	Export value	Appraised values shown on entry papers less additions included to reflect currency revaluation	C.B.S. Imports Corp. v. U.S. (C.D. 4739)	New York; Los Angeles Not stated
R83/217	Re, C.J. February 17, 1983	Men's Wear International, Inc.	76-5-01229, etc.	Export value	Appraised values shown on entry papers less additions included to reflect currency revaluation	C.B.S. Imports Corp. v. U.S. (C.D. 4739)	New York Not stated
R83/218	Re, C.J. February 17, 1983	Zayre Corporation	76-7-01726	Export value	Appraised values, less amounts added for currency fluctuation	C.B.S. Imports v. U.S. (C.D. 4739)	Boston Not stated
R83/219	Watson, J. February 17, 1983	Arrow Trading Co. et al.	R66/19796, etc.	Export value	Appraised unit values less 7.5% thereof, net packed	Agreed statement of facts	New York Transistor radios, accessories and parts; entireties

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO	BASIS OF VALUATION	HELD VALUE	BASIS	PORT OF ENTRY AND MERCHANDISE
R83/220	Maletz, S.J. February 17, 1983	Fownes Bros. & Co., Inc.	80-12-00139	Constructed value	Appraised values as determined by Customs, less 30% addition which Customs added to make appraised values	Agreed statement of facts	New York Gloves
R83/221	Maletz, S.J. February 17, 1983	Mitsubishi International Corporation	82-6-00799	American selling price	Appraised values less 23%, per pair	Agreed statement of facts	New Orleans Footwear
R83/222	Re, C.J. February 22, 1983	Chori America, Inc.	77-7-01224, etc.	Export value	Appraised values shown on entry papers less additions included to reflect currency revaluation	C.B.S. Imports Corp. v. U.S. (C.D. 4739)	New York Not stated
R83/223	Re, C.J. February 23, 1983	Lenco Photo Products, Inc.	79-1-00181	Export value	Appraised values shown on entry papers less additions included to reflect currency revaluation	C.B.S. Imports Corp. v. U.S. (C.D. 4739)	Chicago Not stated
R83/224	Re, C.J. February 23, 1983	Marubeni America Corp.	73-7-01760	Export value	Unit values found by appraising customs official, less ocean freight and marine insurance, without additions for currency fluctuation	C.B.S. Imports Corp. v. U.S. (C.D. 4739)	New York; San Francisco; Savannah; Seattle; Charleston Not stated
R83/225	Watson, J. February 23, 1983	A. E. Lyon Co.	R60/17545	Export value	F.o.b. unit invoice prices plus 20% of difference between f.o.b. unit invoice prices and appraised values	Agreed statement of facts	Los Angeles Pipe fittings, etc.
R83/226	Watson, J. February 23, 1983	A & S Trading Co.	R61/17645, etc.	Export value	F.o.b. unit prices plus 20% of difference between f.o.b. unit prices and appraised values	Agreed statement of facts	New York Transistor radios, accessories and parts; entireties
R83/227	Watson, J. February 23, 1983	B. P. M. International Ltd.	R66/8450	Export value	F.o.b. unit invoice prices plus 20% of difference between f.o.b. unit prices and appraised values	Agreed statement of facts	New York Transceivers

R83/228	Watson, J. February 23, 1983	Bruce Duncan Co., Inc., a/c Jerry Mann of California	R60/8282, etc.	Export value	F.o.b. unit invoice prices plus 20% of difference between f.o.b. unit invoice prices and appraised values	Agreed statement of facts	Los Angeles Sweaters
R83/229	Watson, J. February 23, 1983	C. Itoh & Co. (America) Inc.	269467-A	Export value	F.o.b. unit invoice prices less 7.5% thereof	Agreed statement of facts	New York Dyed textiles woven
R83/230	Watson, J. February 23, 1983	Hurricane Import Co.	R64/17452, etc.	Export value (merchandise described on schedules A and B attached to decision and judgment)	F.o.b. unit invoice prices plus 20% of difference between f.o.b. unit invoice prices and appraised values (schedule A merchandise) Appraised unit values less 7.5% thereof, net packed (schedule B merchandise)	Agreed statement of facts	San Francisco Tubular rugs (merchandise on schedules A and B)
R83/231	Watson, J. February 23, 1983	Imported Rug Associates, Ltd.	R62/8487, etc.	Export value	F.o.b. unit invoice prices less 7.5% thereof	Agreed statement of facts	Tampa Rugs
R83/232	Watson, J. February 23, 1983	Kanematsu New York Inc.	296434-A	Export value	Appraised unit values less 7.5% thereof, net packed	Agreed statement of facts	New York Damask-table-cotton
R83/233	Watson, J. February 23, 1983	Mitsubishi International Corp.	R65/23430, etc.	Export value	Appraised unit values less 7.5% thereof, net packed	Agreed statement of facts	New York Television sets
R83/234	Watson, J. February 23, 1983	Mondial Co., Inc.	R59/11917 etc.	Export value	F.o.b. unit invoice prices plus 20% of difference between f.o.b. unit prices and appraised values	Agreed statement of facts	New York Canned tuna fish
R83/235	Watson, J. February 23, 1983	Nozaki Associates, Inc. Hoyt, Shepston & Sciaroni	R59/536, etc.	Export value	F.o.b. unit invoice prices plus 20% of difference between f.o.b. unit invoice prices and appraised values	Agreed statement of facts	San Francisco Canned tuna

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	BASIS OF VALUATION	HELD VALUE	BASIS	PORT OF ENTRY AND MERCHANDISE
R83/236	Watson, J. February 23, 1983	Shalom & Co.	273020-A	Export value (merchandise described on schedules A and B attached to decision and judgment)	F.o.b. unit invoice prices plus 20% of difference between f.o.b. unit invoice prices and appraised values (schedule A merchandise) Appraised unit values less 7.5% thereof, net packed (schedule B merchandise)	Agreed statement of facts	New York "All merchandise", articles of damask-table-cotton, etc. (merchandise on schedules A and B)
R83/237	Watson, J. February 23, 1983	Starlight Trading, Inc.	R59/13476, etc.	Export value	F.o.b. unit invoice prices plus 20% of difference between f.o.b. unit invoice prices and appraised values	Agreed statement of facts	New York Cotton wearing apparel, etc.
R83/238	Maletz, S.J. February 23, 1983	Dana Perfumes Corporation	80-9-01409	Cost of production	Amounts for material, labor, fabrication costs and general expenses incurred for export to U.S. as included in invoice prices, plus a profit percentage of 17.22715%, plus export packing	Agreed statement of facts	New York Canoe Cologne and Canoe Royale Cologne
R83/239	Maletz, S.J. February 23, 1983	Perkin Elmer Corporation	78-12-02105	Export value	Invoice unit prices, net packed; said prices represent exporter's list prices less 35% discount	Agreed statement of facts	New York Electrical instruments and accessories
R83/240	Maletz, S.J. February 23, 1983	Perkin Elmer Corporation	78-12-02109	Export value	Invoice unit prices, net packed; said prices represent exporter's list prices less 35% discount	Agreed statement of facts	New York Electrical instruments and accessories

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